

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**October 25, 2005**

**DIVISION ONE**

Court convened at 9:00 a.m.

Present: Spencer, P.J., Vogel (Miriam A.), J., Mallano, J., Rothschild, J. and P.  
Gonzalez, Deputy Clerk.

Each of the following:

B175253	People v. Bradley
B178011	People v. Moran
B178358	People v. Audrey P.
B179528	People v. Venegas
B179864	People v. Fernandez
B181223	People v. Mitchell
B181531	People v. Brown
B181667	People v. Keating
B182329	People v. Blake
B182387	DCFS v. Tanya T.
B183498	DCFS v. Charlotte D.
B184833	Lisa D. v. SCLA (DCFS, rpi)

Argument waived, cause submitted.

B172753      Lewis v. City of Los Angeles

Matter continued to October 26, 2005

B176375      Hunnewell v. Ganz

Matter continued to November 21, 2005

DIVISION ONE (Continued)

B171869     People  
              v.  
              Tyrone D. Killingsworth,  
              Damian M. Williams

Merits:  
Argued by Kenneth C. Byrne, Deputy Attorney General for respondent and  
by Edi M.O. Faal for appellant Williams and Peter Gold for appellant  
Killingsworth. Cause submitted.

Mallano, J., leaves the bench.

B177487     Edmond Baker  
B180545     v.  
              County of Los Angeles, et al.

Merits:  
Argued by Charles Fonarow for appellant and by Douglas Fee for  
respondents. Cause submitted.

B175876     People  
              v.  
              Isaac Gaston

Merits:  
Argued by William L. Heyman for appellant and by Douglas L. Wilson,  
Deputy Attorney General for respondent. Cause submitted.

B179253     People  
              v.  
              John H. Dominguez

Merits:  
Argued by William Flenniken for appellant and by Marc E. Turchin,  
Deputy Attorney General for respondent. Cause submitted.

Vogel, J., leaves the bench.

DIVISION ONE (Continued)

Mallano, J., returns to the bench.

B176696     People  
              v.  
              Gerald Jones

Merits:  
Argued by Edward J. Haggerty for appellant and by Alan D. Tate for respondent. Cause submitted.

Vogel, J., returns to the bench.

B178319     People  
              v.  
              Art Olivares

Merits:  
Argued by Matthew Alger for appellant and by Laura J. Hartquist, Deputy Attorney General for respondent. Cause submitted.

B180221     In re Marriage of Shatsky  
              Michelle Shatsky  
              v.  
              Howard Shatsky

Merits:  
Argued by James R. Eliaser for appellant and by Thomas Paine Dunlap for respondent. Cause submitted.

Vogel, J., leaves the bench.

B175346     People  
              v.  
              John Wayne Poe

Merits:  
Argued by Susan E. Nash for appellant and by Lisa J. Brault, Deputy Attorney General for respondent. Cause submitted.

DIVISION ONE (Continued)

Vogel, J., returns to the bench.

Mallano, J., leaves the bench.

B178909      Jennifer A. Corona  
                 v.  
                 Marcel Babakhyi

Merits:

Argued by Mara Burnett for appellant and by James W. Gates for respondent. Submission deferred to allow counsel to discuss possible settlement. Counsel to submit a status letter re settlement by fax as to the after further discussion with clients.

B169328      O Hill Properties  
                 v.  
                 9441 Wilshire Blvd.

Merits:

Argued by Paul Grossman for appellant and by Pamela E. Dunn for respondent. Cause submitted.

B175572      Vernon Hawthorne  
                 v.  
                 Feredon Yaghounotil

Merits:

Argued by Emmanuel C. Akudinobi for appellant and by David N. Norouzi for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B181356 Christine Hoffman (Not for Publication)  
v.  
Ron Gaglio, etc.

The judgment is affirmed. Costs on appeal are awarded to defendants Ron Gaglio and Atlas Appraisal Company.

Kitching, J.

We concur: Croskey, Acting P.J.  
Aldrich, J.

B181263 Los Angeles County, D.C.S. (Not for Publication)  
v.  
Elvia B.,

The juvenile court order denying mother's section 388 petition is affirmed.  
The juvenile court order terminating parental rights is affirmed.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

B176833 Jamie R. Schloss (Not for Publication)  
v.  
Louis Bernstein, Administrator of the Estate of Sheldon Temkin, Deceased  
Martha J. Kaplan

The judgment from which Kaplan has appealed is amended to delete the award of punitive damages against her, and as so amended, is affirmed.  
Costs on appeal to Temkin.

Croskey, Acting P.J.

We concur: Kitching, J.  
Aldrich, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

### DIVISION THREE (Continued)

B174856 Environmentalism Through Inspiration (Not for Publication)  
and Non-Violent Action, et al  
v.  
City of Los Angeles et al,  
Playa Capital Company, LLC, et al.,

The judgment is reversed with directions to the superior court to grant the petition and issue a peremptory writ of mandate ordering the city to vacate its approval of the methane mitigation measures, for the purpose of determining whether a subsequent EIR or a supplemental EIR is required with respect to groundwater dewatering, and proceed accordingly as required by CEAQ. Petitioners shall recover their costs on appeal.

Croskey, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FIVE

B179638      People      (Certified for Publication)  
v.  
Nathan Germany

The judgment is affirmed.

Mosk, J.

We concur:   Armstrong, Acting P.J.  
                      Kriegler, J.

October 25, 2005 (Continued)

DIVISION FIVE (Continued)

B180291 People (Not for Publication)  
v.  
Kevin Bennet

The judgment is affirmed.

Armstrong, Acting P.J.

We concur: Mosk, J.  
Kriegler, J.

B182749      In re, Johnny R., et al      (Not for Publication)  
v.  
Los Angeles County, D.C.S.  
Richard R., et al.,

The judgment is affirmed.

Mosk, J.

We concur:   Armstrong, Acting P.J.  
                      Kriegler, J.

## DIVISION SIX

[illegible]

The judgment is affirmed. The parties shall bear their own costs on appeal.

Coffee, J.

We concur: Gilbert, P.J.  
Yegan, J.

October 25, 2005 (Continued)

## DIVISION SIX (Continued)

B180949 People (Not for Publication)  
v.  
Safotu

The judgment determining Safotu to be an MDO and committing him to Atascadero State Hospital is reversed.

Perren, J.

We concur: Gilbert, P.J.  
Yegan, J.

[illegible]

The judgment is affirmed. Wife shall recover her costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

B180551      Rietdyk                                  (Not for Publication)  
v.  
State of California

The judgment is affirmed. Costs are awarded to respondent State.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

## DIVISION SEVEN

B171212      Oliney      (Not for Publication)  
v.  
Oliney

The orders are affirmed. Alan to recover costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

B184695      In re Rene H.      (Not for Publication)  
Martha E.  
v.  
Superior Court, Los Angeles County  
(Los Angeles County, D. C. S., r.p.i.)

Because substantial evidence supports the juvenile court's order to conduct a hearing pursuant to section 366.26, the petition is denied on the merits.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

B178825      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Di Di D.  
Rene H., Objector and Appellant

The restraining order is affirmed.

Johnson, J.

We concur: Perluss, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B180144      People                                  (Not for Publication)  
v.  
Evelyn G., a minor

Probation condition number 21 is modified to read, “Do not use or possess narcotics, controlled substances, poisons, or related paraphernalia; stay away from places where persons whom you know to use illegal drugs or substances congregate.” The cause is remanded with directions for the court to expressly declare on the record in accordance with Welfare and Institutions Code section 702 whether the offense in the case at bar would be a felony or a misdemeanor for an adult convicted of the same offense. In all other respects the juvenile court’s order is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

B167722      Pagarigan      (Not for Publication)  
v.  
Pagarigan

The judgment is reversed and the cause remanded to the trial court with instructions to sustain the demurrer with leave to amend as to the first and eleventh causes of action in the Pagarigans' complaint and to sustain the demurrer without leave to amend as to the remaining counts against Aetna, and for further proceedings consistent with this opinion. Each side to bear its own costs on appeal.

Johnson, J.

We concur: Perluss, P.J.  
Wood, J.

## DIVISION SEVEN (Continued)

B174727 In re Brandy M. et al.  
B175743 Los Angeles County, D.C.S.  
B179791 v.  
Brian B.

Filed order denying petition(s) for rehearing.

## DIVISION EIGHT

B177928 Ugalde, (Not for Publication)  
v.  
Schwartz

The judgment is reversed and the case is remanded for further proceedings consistent with this opinion. Ugalde shall recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.  
Boland, J.

B171758 People (Not for Publication)  
v.  
Rivas

The judgment of the trial court is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

## DIVISION EIGHT (Continued)

[illegible]

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

B173009      Zevada Enterprises, Inc.,      (Not for Publication)  
v.  
Elis Sasson et al.,

The judgment is reversed. The trial court is directed to enter an order sustaining Sasson's demurrer to Zevada's second cause of action for breach of contract without leave to amend and sustaining Sasson's demurrer to the first cause of action for reformation and its third cause of action for money had and received with leave to amend. The case is remanded to the trial court. Each party to bear its own costs.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B177441 People (Not for Publication)  
v.  
Jones

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

## DIVISION EIGHT (Continued)

B178266 People (Not for Publication)  
v.  
Raymond S.,

The judgment of the juvenile court is affirmed; however the matter is remanded to the trial court to remove the designation of the 1999 robbery offense as a section 707, subdivision (b) offense. Additionally, the juvenile court is directed to review, and recalculate, if necessary, the predisposition credits to be awarded to appellant.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

[illegible]

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B176313      McDaniel                      Not for Publication)  
v.  
Barrus et al.,

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

October 25, 2005 (Continued)

DIVISION EIGHT (Continued)

B173908      Los Angeles County, D.C.S.  
                 v.  
                 Gene E.,  
                 In re Eric E., a Person Coming Under the Juvenile Court Law.  
  
                 Filed order granting petition for rehearing.